

EXHIBIT A



Entered on Docket
January 22, 2008

 **FILED**
1/15/08

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,

USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,

USA CAPITAL FIRST TRUST DEED FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Hearing Date: December 20, 2007
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

**ORDER REQUIRING SUPPLEMENTAL BRIEFING ON THE USACM TRUST'S
EIGHTH OMNIBUS OBJECTION TO CLAIMS ASSERTING A SECURED
STATUS AS IT PERTAINS TO THE CLAIM FILED BY JOHN DUTKIN**

Pending before the Court is the USACM Liquidating Trust's (the "USACM Trust") Eighth Omnibus Objection to Claims Asserting Secured Status (the "Objection") [DE 3147] as it pertains to the claim filed by John Dutkin (Proof of Claim No. 10725-01395) and the USACM Trust's Motion for Summary Judgment on that Objection (the "Motion") [DE 4291]. The Court heard oral argument on the Objection and the Motion on December 20, 2007. Based upon the record available, the Court lacks sufficient information upon which to make a ruling on the Motion and the Objection. Accordingly,

IT IS ORDERED:

- That the parties shall provide additional briefing to Court on the following issues:
 - 1) Are the funds that John Dutkin seeks to recover as part of his claim against USACM already at issue as part of the pending interpleader action;
 - 2) Did the Court enter an order under which USACM could have and/or should have honored the checks written to John Dutkin that were rejected by USACM post-petition;
 - 3) Is Dutkin's claim entitled to secured status based upon a constructive trust theory, or because USACM might have been acting as a fiduciary?
- That John Dutkin shall file its supplemental briefing by February 1, 2008;
- That the USACM Liquidating Trust shall file its supplemental briefing by February 10, 2008; and
- Resetting the matter for oral argument on February 21, 2008 at 9:30.

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4 PREPARED AND SUBMITTED:

5 LEWIS AND ROCA LLP

6 By: /s/ RC (#0006593)
7 Susan M. Freeman
8 Rob Charles
9 *Attorneys for USACM Liquidating Trust*

10 APPROVED:

11 GEORGE D. FRAME, Ltd.

12 By: 
13 George D. Frame
14 *Counsel for John Dutkin, Trustee*

15 OFFICE OF THE U.S. TRUSTEE

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By:


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APPROVED:

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1 In accordance with Local Rule 9021, the undersigned certifies:

- 2 ☐ The Court waived the requirements of LR 9021.
- 3 ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented
4 parties who have appeared at the hearing regarding this matter and/or who filed
5 a written objection and each has:
- 6 ☒ approved the form of this order;
- 7 ☐ waived the right to review the order;
- 8 ☐ failed to file and serve papers in accordance with LR 9021(c); and/or
- 9 ☐ failed to sign and return this proposed order within five (5) business days
10 in accordance with LR 9021(b).
- 11 ☐ I have delivered a copy of this proposed order to all attorneys and unrepresented
12 parties who appeared at the hearing regarding this matter and/or who filed a
13 written objection and all have either approved the form of this order, waived the
14 right to review the order, failed to file and serve papers in accordance with LR
15 9021(c) and the following have disapproved the form of the order.
- 16 ☐ No opposition was filed and no other party or counsel appeared at the hearing.

14 George D. Frame (Approved)
15 Counsel for John Dutkin, Trustee

16 August Landis (Approved)
17 *Office of the U.S. Trustee*

19 **LEWIS AND ROCA LLP**

20 By: /s/ RC (#0006593)
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